
Delegated report Officer: Richard Rodgers

Application ref. DMPN/2021/1470

Certificate of Lawfulness for proposed single storey rear extension at 7 Brick Kiln Road, Newton Solney, Burton on Trent, DE15 0TS

Valid date: 24/09/2021

Consults expired: 03/11/2021

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

2014/1039 - Outline application for up to 100 dwellings - approved by appeal April 2016;
2016/0732 - Reserved matters of above - approved by Committee October 2016

PD rights are intact here - plot 4

Responses to consultations and publicity

Consultation not required.

Relevant policy, guidance and/or legislation

Relevant Legislation:

- Section 192 of the Town and Country Planning Act 1990
- Schedule 2 Part 1 Class A of the General Permitted Development Order 2015 (GPDO)

National Guidance:

- National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

- Permitted development rights for householders Technical Guidance (September 2019)

Planning considerations

This application falls to be considered under Section 192 of the 1990 Act in that the development is claimed to be lawful by way of it not requiring express planning permission from the Local Planning Authority (LPA). The LPA needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage. Whilst the onus is on the applicant to provide sufficiently precise and unambiguous evidence to justify the grant of a certificate, on the balance of probability, the Planning Practice Guidance (PPG) also states that if a LPA has no evidence itself, nor any from others, to contradict the applicant's case or make it less than probable, there is no good reason to refuse the application.

Planning assessment

This is a detached dwellinghouse with its permitted development rights intact. The GPDO thereafter allows for extensions or alteration, provided certain criteria are met. Here the extension would project off part of the rear wall and be within the permitted sizes/matching materials thereafter. It should be noted plans were amended, on request, and now show a matching tiled roof finish (with flush fitting roof light) rather than a zinc roof originally detailed. There are some protected trees (TPO's) to the rear of the site but they are considered to be far enough away (10m+) with a tall boundary fence further

separating. Given all of the information, it is considered that on the balance of probability, the development is lawful.

Recommendation

Approve

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	22/11/2021
Report agreed:	22/11/2021
Authorised officer:	Sarah Beeby
